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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1937

No. 391

ALMA LOVELL, APPELLANT,

vs.

THE CITY OF GRIFFIN

APPEAL FROM THE COURT OF APPEALS OF THE STATE OF GEORGIA

FILED SEPTEMBER 7, 1937.

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INDEX.

	Original	Print
Record from Superior Court of Spalding County	1	1
Bill of exceptions and order settling same	1	1
Petition for certiorari	4	2
Proceedings in Recorder's Court of City of Griffin	4	2
Ordinance re distribution of literature	4	3
Demurrer and motion to dismiss	4	3
Judgment	7	6
Testimony of J. T. Wilson	8	6
R. A. Drake	9	7
Assignments of error	9	7
Order refusing sanction of petition	13	9
Exhibit "A"—Statement of defendant	14	9
"B"—Notice of petition for certiorari	20	14
"C"—Bond	21	14
"D"—Certificate of clerk	21-a	15
Judge's certificate (omitted in printing)	22	
Clerk's certificate (omitted in printing)	22	
Proceedings in Court of Appeals of Georgia	24	16
Opinion, MacIntyre, J.	24	16
Judgment	26	17
Motion for rehearing (omitted in printing)	27	
Order denying rehearing (omitted in printing)	34	
Notices of petition for certiorari (omitted in printing)	35	
Order of Supreme Court denying certiorari	37	18
Petition for appeal (omitted in printing)	38	
Order allowing appeal	39	18
Assignments of error	40	19
Supersedeas bond on appeal (omitted in printing)	53	
Citation and service (omitted in printing)	55	
Præcipe for record (omitted in printing)	57	
Clerk's certificate (omitted in printing)	59	
Statement of points to be relied upon and designation as to printing record	60	22

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[fol. 1]

IN SUPERIOR COURT OF SPALDING COUNTY

BILL OF EXCEPTIONS—Filed July 3, 1936; Filed in Court of Appeals July 10, 1936

GEORGIA,
Spalding County:

Be it remembered that on June 29, 1936, there came on to be tried in the Recorder's Court of the City of Griffin the case of the City of Griffin against Alma Lovell, the same being a prosecution for a violation of an ordinance of the City of Griffin which prohibits the distribution of literature of any kind within the limits of the City of Griffin, without the written permission of the City Manager of said City. On the trial of said case the Recorder who was presiding therein found Alma Lovell, the defendant in said case, guilty of a violation of said ordinance and sentenced her to serve fifty days in jail, in default of the payment of a fine of fifty dollars. Within less than thirty days from the date of said sentence, and within the time required by law, the defendant therein, Alma Lovell, presented her petition for certiorari in said case to the Honorable W. E. H. Searcy, Jr., Judge of the Superior Courts of the Griffin Circuit of Georgia, and on July 2, 1936, the said named Judge of the Superior Courts entered up an order on said petition for certiorari refusing to sanction said petition. The original petition for certiorari, with the exhibits and orders thereon, is hereto attached, properly identified by the certificate of the Judge to whom it was presented, and is made a part of this petition.

To this judgment of the court refusing to sanction said petition for certiorari Alma Lovell excepted, now excepts, and assigns error thereon and says that the court erred in refusing to sanction said petition for certiorari on the ground that such judgment and ruling is contrary to law. Said Alma Lovell further assigns error on said ruling for the reason that each and all of the rulings made by the Recorder in said case were erroneous for each and all the reasons set out in the petition for certiorari and the court should have sanctioned said petition for each and all of said reasons.

[fol. 2] Alma Lovell names herself as plaintiff in error in this bill of exceptions and the City of Griffin as defendant in error.

And now, within less than twenty days from the date of the ruling herein complained of, and within the time required by law, plaintiff in error presents this bill of exceptions and prays that the same be certified as required by law, in order that the errors complained of may be considered and corrected by the Court of Appeals of Georgia.

(Signed) John O. Owen, (Signed) Charles G. Reynolds, Attorneys for Plaintiff in Error, Post Office Address: 432 Peachtree Arcade, Atlanta, Georgia.

[fol. 3] Order Settling Bill of Exceptions

I hereby certify that the foregoing bill of exceptions is true. The Clerk of the Superior Court of Spalding County, Georgia, is hereby ordered and directed to file this bill of exceptions and certify it and transmit it to the next term of the Court of Appeals of Georgia that the errors alleged to have been committed may be considered and corrected. I further certify that the said bill of exceptions contains all the record material to a clear understanding of the errors complained of.

This the 3 day of July, 1936.

Wm. E. H. Searcy, Jr., Judge of Superior Courts of Griffin Circuit of Georgia.

Service of the foregoing bill of exceptions is hereby acknowledged.

This the 3 day of July, 1936.

J. O. Futral, Attorney for City of Griffin, Defendant in Error. W. H. Connor, Sol. Gen. Griffin Circuit.

[fol. 4] In Superior Court of Spalding County

Petition for Certiorari

To the Superior Court of Spalding County, Georgia:

The petition of Alma Lovell respectfully shows:

1. That on June 29, 1936, there came on to be tried in the Recorder's Court of the City of Griffin, Georgia, before

Honorable D. R. Cumming, one of the commissioners of said City, who was then and there acting as Recorder and was presiding in said case, the case of the City of Griffin against Alma Lovell, petitioner, the same being a prosecution for a violation of an ordinance of the City of Griffin which reads as follows:

ORDINANCE OF CITY OF GRIFFIN

"Be it ordained by the Board of Commissioners of the City of Griffin:

"Section 1. That the practice of distributing, either by hand or otherwise, circulars, handbooks, advertising, or literature of any kind, whether said articles are being delivered free, or whether same are being sold, within the limits of the City of Griffin, without first obtaining written permission from the City Manager of the City of Griffin, such practice shall be deemed a nuisance, and punishable as an offense against the City of Griffin.

"Section 2. The Chief of Police of the City of Griffin and the police force of the City of Griffin are hereby required and directed to suppress the same and to abate any nuisance as is described in the first section of this ordinance."

DEMURRER AND MOTION TO DISMISS

On the trial of said case, before arraignment of said charge, the defendant in said case, petitioner herein, filed an oral demurrer to the charge against her, said demurrer being accepted by the court in lieu of a written demurrer, and moved to dismiss the case against her on the following grounds:

1. Because said ordinance is void in that it fails to provide any penalty for a violation thereof.

2. Because said ordinance is contrary to and in violation [fol. 5] of the first amendment to the Constitution of the United States, which reads:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the